



U.S. Department of Justice

United States Attorney  
Southern District of New York

United States District Courthouse  
300 Quarropas Street  
White Plains, New York 10601

December 8, 2017

**BY ECF AND HAND DELIVERY**

The Honorable Paul E. Davison  
United States Magistrate Judge  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

**Re: Investigation of AMA Laboratories, Inc., 17-mj-9109 (PED)**

Dear Judge Davison:

The Government respectfully submits this letter in brief reply to AMA's letter dated December 6, 2017. AMA's request to access the Government's *in camera* submission should be denied. Notably, AMA cites no authority in support of its request, and for good reason: courts routinely rely on *ex parte* or *in camera* submissions in deciding motions to unseal materials in the midst of an ongoing investigation. *See All Funds on Deposit at Wells Fargo Bank*, 643 F. Supp. 2d 577, 585 (S.D.N.Y. 2009) (relying in part on a sealed *ex parte* submission from the Government); *In re Herald Co.*, No. 05-MC-0088, 2006 WL 547962, at \*2-3 (N.D.N.Y. Mar. 3, 2006) (denying full access to the Government's *ex parte* submission opposing a motion to unseal wiretap affidavits);<sup>1</sup> *Matter of Searches of Semtex Indus. Corp.*, 876 F. Supp. 426, 429 (E.D.N.Y. 1995) (giving the Government "leave to inform the Court *in camera* why [certain] information should not be unsealed"). Because disclosure of the Government's *in camera* submission risks jeopardizing the integrity of an ongoing investigation, AMA's request should be denied.

The Government notes that while AMA repeatedly refers to itself as a defendant, AMA is no such thing: no charges have been filed to date against AMA or any of its employees. If and when AMA does become a defendant, it will gain access to the search warrant materials through Rule 16 discovery. AMA's attempt to learn the details of the Government's investigation before charges are filed should be rejected.

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<sup>1</sup> In *Herald*, the Court ordered the Government to provide a proposed redacted version of the *ex parte* submission "so as to prevent disclosure of the sensitive information contained therein while simultaneously providing the public with access to the Government's legal arguments." 2006 WL 547962 at \*3. The Court made clear, however, that "the redaction might block out such a significant portion of the information contained in the Government's January 20, 2006 *ex parte* submission leaving little more than a bare legal argument." *Id.* In this case, the Government submitted its legal argument in a separate, publicly filed letter; the *in camera* submission is limited to sensitive information, rendering redactions inappropriate.

The Government takes no position on AMA's request for an extension of time to file a reply.

Respectfully submitted,

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